

Remarks

Claims 1-5 are present in this application and are under consideration.

Claims 1-5 are in their original form; not having been amended during prosecution of this application.

Claims 1-5 are rejected under 35 USC 103(a) as obvious over WO 99/05108.

Applicants respectfully traverse these rejections.

The Examiner recognizes, as pointed out in the response filed Dec. 2, 2003, that the compound (g) on page 55 of WO '108 is N,N,N',N'-tetramethyl-N,N'-bis-[3-(1-oxyl-2,2,6,6-tetramethylpiperidin-4-yloxy)-2-hydroxypropyl]-hexamethylenediammonium dibromide and not N,N,N',N'-tetramethyl-N,N'-bis-[3-(1-oxyl-2,2,6,6-tetramethylpiperidin-4-yloxy)-propyl]-hexamethylenediammonium dibromide.

However, the Examiner maintains that the claimed N,N,N',N'-tetramethyl-N,N'-bis-[3-(1-oxyl-2,2,6,6-tetramethylpiperidin-4-yloxy)-ethyl]-hexamethylenediammonium dibromide is an obvious variant of compound (g) of WO '108.

The Examiner alleges that WO '108 teaches the alternativeness of using alkyl chains containing 1 to 4 carbon atoms interrupted with two oxygens and further not interrupted or interrupted with two hydroxyl groups (page 39 or page 8, lines 6-20).

Applicants point out that these alkyls are not further substituted by an ammonium group as the present ethyl compounds are. Further, the broad definition of R₁ on pages 25 and 26 of WO '109 do not allow for ammonium substitution. There is no possible overlap of the compounds of the present claims with the compounds disclosed in WO '108.

In any event, the present rejections are obviated as a common inventor, Glen T. Cunkle, invented the compounds (a)-(j) of page 55 of WO 99/05108. Compound (g) is the compound relied upon for the present rejections. A Declaration under Rule 132 is attached herewith in which Dr. Cunkle attests to this.

In light of the present Rule 132 Declaration, Applicants submit that the 35 USC 103(a) rejections are addressed and are overcome.

The Examiner is kindly requested to reconsider and to withdraw the present rejections.

Applicants submit that the present claims are in condition for allowance and respectfully request that they be found allowable.

Respectfully submitted,



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Attachment: Rule 132 Declaration by Dr. Glen T. Cunkle